

## MEMORANDUM OF CONSULTATIONS

Delegations of the United States of America and the People's Republic of China met in Beijing, China, on January 30 to February 1, 2007, to discuss their bilateral civil aviation relationship. Discussions proceeded in a warm and productive atmosphere characteristic of the close relationship between the two countries, and resulted, *inter alia*, in the following:

The delegations acknowledged their differing legal positions regarding whether cargo changes of plane/gauge and/or layovers of more than twenty-four hours at beyond or terminal points, be the terminal points beyond or in China, as well as "open jaw"<sup>1</sup> operations, are permissible in a single frequency under the 1980 U.S.-China Civil Air Transport Agreement ("the Agreement"), as amended.

The Chinese side stated its view that the U.S. cargo carriers' operations described above are inconsistent with the Agreement, and the U.S. side stated its view that such operations are consistent with the Agreement. The delegations stated their intention to work toward a final resolution of their differences over these operations.

Without prejudice to the delegations' differing legal views, and pending a final resolution of their differences over these operations:

- (1) the Chinese side intends to allow U.S. cargo carriers, for the IATA 2007 Summer and Winter Seasons, to undertake operations of the types previously authorized after the 2004 Protocol's entry into force that involve changes of plane/gauge and/or layovers of over twenty-four hours at beyond points or terminal points, be the terminal points beyond or in China, without requiring the use of a second frequency; and
- (2) The U.S. side expressed its expectation that China would continue to allow these operations while the two sides continue to work toward a final agreement resolving their differences. The U.S. delegation understands that U.S. cargo carriers will not apply for authorization to undertake "open jaw" operations using only one frequency for the IATA 2007 Summer and Winter Seasons.

The Chinese delegation stated that the application of Jade Cargo International Company Limited ("Jade Cargo") complies with the Agreement and encouraged the U.S. side to grant approval to Jade Cargo for exercising its rights authorized in the Agreement at an early date. The U.S. delegation stated that the U.S. Department of Transportation intends to act as expeditiously as possible on the application of Jade Cargo and to encourage other government agencies involved in reviewing the standard requirements when licensing a foreign air carrier's operations to the United States to do so as well.

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<sup>1</sup> For the purposes of this memorandum, the term "open jaw" refers to an operation where the third-country termination point of an outbound flight from the U.S. is different from the third-country origination point of a corresponding inbound flight to the U.S. For example, the following is an "open jaw" pattern: the outbound flight's route is ANC-PVG-NRT, and the corresponding inbound flight's route is FRA-PVG-ANC.

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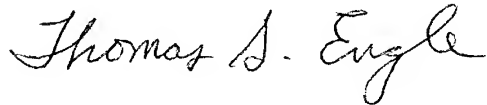
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The two delegations further indicated that it was their intention that their competent authorities give fair and timely consideration to all charter applications filed by the other Party's carriers.

Nothing in this Memorandum is intended to restrict the rights of carriers that establish hubs pursuant to the Agreement.

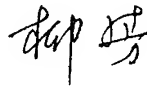
Signed at Washington this 15<sup>th</sup> day of March 2007.

For the Delegation of  
The United States of America

A handwritten signature in cursive script, reading "Thomas S. Engle".

Mr. Thomas S. Engle

For the Delegation of  
the People's Republic of China

A handwritten signature in cursive script, reading "Liu Fang".

Dr. Liu Fang